HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Petition No.4218 of 2007

Between:

The Government of Andhra Pradesh,
Rep. By its Secretary, Revenue Department,
Secretariat, Hyderabad and four others

… Petitioners

And

M. Babu Rao

… Respondent

:: ORDER::

Counsel for the Petitioners: Government Pleader for Services - II

April 30, 2007

Per G.S. Singhvi, CJ

Whether respondent – M. Babu Rao was entitled to receive additional charge allowance for the post of Village Administrative Officer for the period from 1-1-1993 to 30-6-1997 and whether the Andhra Pradesh Administrative Tribunal (for short, 'the Tribunal') committed an error by entertaining and accepting his claim for payment of additional charge allowance in terms of Rule 26 of the Andhra Pradesh Village Administrative Officers' Service Rules, 1990 (for short, 'the Rules') is the question, which arises for determination in this petition filed by the Government of Andhra Pradesh and four others for quashing order dated 2-11-2004 passed by the Tribunal in O.A.No.6544 of 2001 – M. Babu Rao v. Government of Andhra Pradesh and others.

There is no dispute between the parties that while he was holding the post of Village Administrative Officer, Boduvalasa Village, Sabbavaram Mandal, Visakhapatnam District, the respondent was given additional charge of that post for Village Ayyannapalem. He worked as Village Administrative Officer for two villages from 1-1-1993 to 30-6-1997, but was paid additional charge allowance only for a period of six months. His claim for additional charge allowance for the remaining period was recommended by Mandal Revenue Officer, Sabbavaram to Revenue Divisional Officer, Visakhapatnam, but the latter did not take any action in the matter. This led to the filing of O.A.No.6544 of 2001 in which the respondent claimed that he is entitled to additional charge allowance for the entire period.

In the counter filed by non-applicant No.5 (petitioner No.5 herein), the factum of the applicant (the respondent herein) having held additional charge of the post of Village Administrative Officer for Ayyannapalem Village from 1-1-1993 to 30-6-1997 was not denied,

but it was averred that he is not entitled to additional charge allowance for the entire period because in terms of
Rule 5 (2) of the Rules, a person cannot hold additional charge for more than six months. Petitioner No.5 relied on Rules 5 (2) and 26 of the Rules and pleaded that the applicant can claim additional charge allowance for a maximum period of six months, which had already been sanctioned to him.

The Tribunal noted that in terms of the proviso to Rule 5 (2) of the Rules, a Village Administrative Officer cannot be entrusted with the charge of more than two villages at a time and the period of such additional charge cannot exceed six months, but held that the respondent is entitled to receive additional charge allowance in terms of Rule 26 for the entire period because the competent authority allowed him to hold additional charge of the post of Village Administrative Officer for Ayyannapalem Village for more than six months. The Tribunal further held that the non-applicants cannot question the entitlement of the applicant to receive additional charge allowance for the entire period because the concerned authority failed to withdraw the additional charge of Ayyannapalem Village after six months.

The learned Government Pleader half-heartedly argued that even though the respondent was made to work as Village Administrative Officer for two villages i.e. Boduvalasa and Ayyannapalem for four years and six months, the direction given by the Tribunal for payment of additional charge allowance for the entire period from 1-1-1993 to 30-6-1997 should be quashed because in terms of proviso to Rule 5 (2) of the Rules, a Village Administrative Officer cannot hold charge of two villages for more than six months. Learned counsel conceded that Rule 26 of the Rules does not

contain any prohibition on the payment of additional charge allowance for more than six months, but argued that if that rule is read in conjunction with proviso to Rule 5 (2), it becomes clear that a Village Administrative Officer cannot get additional charge allowance for more than six months.

In our opinion, there is no merit in the contentions of the learned Government Pleader and the writ petition is liable to be dismissed summarily. Rules 5 and 26 of the Andhra Pradesh Village Administrative Officers' Service Rules, 1990, which have bearing on this case, read as under:

Rule 5: Vacancies of Village Administrative Officers to be reported to the Revenue Divisional Officers:-

1) Every vacancy of a Village Administrative Officer caused due to retirement/resignation/death of the holder of such post or due to creation of any new Offices as a consequence of reorganization of Villages etc., shall as soon as may be after the occurrence thereof be reported by the Mandal Revenue Officer, to the Revenue Divisional Officer/Sub-Collector, and in turn to the Joint Collector.

2) Whereas a vacancy arises in the post of Village Administrative Officer and if the filling up of such vacancy in accordance with these rules is likely to cause delay, the Mandal Revenue Officer may, by order, place any other Village Administrative Officer of the neighbouring Village in additional charge of such Village Administrative Officer.

Provided that a Village Administrative Officer shall not ordinarily be placed to hold additional charge of more than two Village Administrative Officers at a time. Such additional charge shall not exceed a period of six months.

3) Every additional charge arrangement of a Village Administrative Officer under sub-rule (2) shall be reported to the Revenue Divisional Officer who may, for reasons to be recorded in writing, modify or rescind the order of the Mandal Revenue Officer.

Rule 26: Additional Charge Allowance:

Where a Village Administrative Officer discharges the duties of another Village Administrative Officer, in addition to his own, he shall be granted additional charge allowance at the rate of 2/5th of the honorarium for such period of the additional office in question, which shall be paid every month.

An analysis of the above reproduced rules show that in the normal circumstances, a Village Administrative Officer cannot be given additional charge of more than two villages at a time and the tenure of such additional charge cannot exceed six months. However, there is nothing in the language of Rule 26 from which it can be inferred that an officer who is made to hold charge of two villages for more than six months is not entitled to additional charge allowance for the entire period. To put it differently, if a Village Administrative Officer is asked by the competent authority to hold additional charge of another village and period of the additional charge exceeds six months, he is entitled to additional charge allowance for the entire period in accordance with the formula specified in Rule 26. The prohibition contained in proviso to Rule 5 (2) regarding the period of additional charge is to be enforced by the authority competent to give additional charge. If such authority fails to discharge its statutory obligation in terms of proviso to Rule 5 (2), the officer who is asked to hold additional charge for more than six months cannot be denied the benefit of additional charge allowance.

In our considered view, the petitioners cannot take advantage of the illegality, if any, committed by the competent authority by not withdrawing additional charge of Ayyannapalem Village from the respondent after expiry of six months period and deprive him of the legitimate right to receive additional allowance in lieu of having worked as Village Administrative Officer for more than one village. Of

course, it is open to the State Government to recover the amount of additional charge payable to the respondent for period exceeding six months from the salary of the officer, who did not take steps to post independent Village Administrative Officer for Ayyannapalem Village and allowed the respondent to hold additional charge beyond six months.

In the premise aforesaid, we hold that the Tribunal did not commit any illegality by directing the petitioners to pay additional charge allowance to the respondent for the entire period during which he held additional charge of the post of Village Administrative Officer for Ayyannapalem Village.

In the result, the writ petition is dismissed.

As a sequel to dismissal of the writ petition, WPMP No.5391 of 2007 filed by the petitioners for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

April 30, 2007

C.V. NAGARJUNA REDDY, J

svs